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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|---------------------|------------------|
| 09/536,351   | 03/27/2000  | Sreenivasa Rao Damarla | 3900-003            | 3606             |
| 7590 04/14/2004  |             |                        | EXAMINER            |                  |
| Luke A Kilyk Esq<br>Kilyk & Bowersox PLLC<br>3603 E Chain Bridge Road<br>Fairfax, VA 22030 |             |                        | LEVY, NEIL S        |                  |
|  |             |                        | ART UNIT            | PAPER NUMBER     |
|  |             |                        | 1616                |                  |

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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Washington, D.C. 20231

| SERIAL NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
|---------------|-------------|-----------------------|---------------------|
| 09/536357     |             | DAMARIA dW            |                     |

| EXAMINER  |              |
|-----------|--------------|
| NEIL LEVY |              |
| ART UNIT  | PAPER NUMBER |
| 1616      |              |

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run \_\_\_\_\_ or continues to run 3 months from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☐ Applicant's response to the final rejection, filed \_\_\_\_\_ has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
- c. ☒ They raise the issue of new matter. (See Note).
- d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

Canceled claim to any other existing support was not presented - copies are requested otherwise it is not clear whether or not the amendment meets the requirements. No comment was made as to where support is for free of

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: of record

However:

☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because it is not clear where there was support for the now claimed language. Rather, the invention is seen as Azadirachtin based.

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented. however about "consisting of" any chemical pesticide is invited.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

Finally, it is still not clear what the Neem extract of Azadirachtin % is a % of (claim 3). The rejection of 9/02/03 are maintained

NEIL S. LEVY  
PRIMARY EXAMINER